

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

PHILIP O'GRADY,

Plaintiff,

v.

RED ROBIN GOURMET BURGERS,  
INC., *et al*,

Defendants.

Action No. 24-cv-1076 (JKS) (SDA)

**WHEREAS OPINION AND ORDER**

February 4, 2025

**STACEY D. ADAMS**, United States Magistrate Judge.

**THIS MATTER** having come before this Court following a status conference on January 8, 2025; and

**WHEREAS**, an initial pretrial scheduling order was entered on April 25, 2024. As of the date of the order, discovery requests had already been served by the parties. Responses were due within the time frame set by Court rules, namely, within 30 days of service. *See* Fed. R. Civ. P 33 and 34. This means, at the latest, responses would have been due by May 28, 2024. Despite this, as of the September 20, 2024 status conference, Plaintiff still had yet to respond to outstanding discovery requests. The Court afforded him additional time and entered an Order setting a deadline of October 11, 2024 for Plaintiff to respond to discovery requests; and

**WHEREAS**, the September 20, 2024 Order also scheduled an IN PERSON settlement conference for January 8, 2025; and

**WHEREAS**, Plaintiff failed to timely serve discovery requests in compliance with the Court's Order. Accordingly, Defendants' counsel wrote the Court seeking leave to file a motion to compel on November 4, 2024 (ECF No. 16); Plaintiff did not respond to this letter; and

**WHEREAS**, the Court granted Defendants leave to file a motion to compel on November

7, 2024 (ECF No. 17); and

**WHEREAS** Defendants filed a motion to compel and for sanctions on December 5, 2024 (ECF No. 19); and

**WHEREAS** Plaintiff did not oppose the motion; and

**WHEREAS** Defendants wrote the Court on December 16, 2024 seeking to cancel the January 8, 2025 settlement conference because it could not meaningfully participate in settlement discussions without having received any discovery from Plaintiff (ECF No. 21); and

**WHEREAS**, the Court granted Defendants' request in part on December 19, 2024 and converted by settlement conference into an IN PERSON status conference on January 8, 2025 (ECF No. 22); and

**WHEREAS**, counsel for Defendants appeared for the status conference on December 8, 2025. Counsel for Plaintiff failed to appear despite receiving notice on three separate occasions (verbally on September 20, 2024, via written Order dated September 20, 2024 (ECF No. 15), and via second Text Order dated December 19, 2024 (ECF No. 22)); and

**WHEREAS**, as a result of Plaintiff's failure to appear at the January 8, 2025 conference, the Court granted Defendants' Motion to Compel, ordered Plaintiff to respond to Defendants' discovery requests by January 17, 2025, granted Defendants' request for fees associated with the filing of the motion. (ECF No. 24); and

**WHEREAS**, the Court directed Defendants' counsel to submit an affidavit of services to the Court setting forth the fees and costs incurred to file the motion to compel and for his appearance in Court on January 8, 2025; and

**WHEREAS**, Defendants' counsel submitted an affidavit of costs and fees on January 20, 2025. (ECF No. 25). The affidavit includes a total request of \$2,820 in costs and fees incurred by Defendant Red Robin, \$1,826 of which was incurred to prepare the Motion to Compel and for

Sanctions and \$994 of which was incurred for counsel to attend and participate in the conference on January 8, 2025; and

**WHEREAS**, the Court having reviewed the affidavit of services finds its to be fair and reasonable in terms of defense counsel's rate and the amount of time spent on the tasks contained therein; and for good case shown:

**IT IS**, on this **4th** day of **February, 2025**,

**ORDERED** that, Defendants are awarded attorneys' fees and costs in the amount of **\$2,820**. This amount shall be paid by Plaintiff to Defense counsel within thirty (30) days of this Order.

**SO ORDERED.**

/s/ Stacey D. Adams  
**STACEY D. ADAMS, U.S.M.J.**

Orig: Clerk  
cc: Parties  
Jamel K. Semper, U.S.D.J.